

Message Text

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SUBJECT: WELDED STAINLESS STEEL PIPE AND TUBE (WSST):
PRESIDENT DISAPPROVES USITC ORDER

REF: STATE 52025

1. IN REFTEL WE ADVISED THAT THE USITC HAD ISSUED AN ORDER DIRECTING ELEVEN JAPANESE FIRMS TO CEASE AND DESIST FROM ENGAGING IN AN UNFAIR COMPETITIVE PRACTICE AND THAT THE PRESIDENT HAD SIXTY DAYS FROM FEBRUARY 23 TO DETERMINE WHETHER THE ORDER SHOULD BE ALLOWED TO STAND OR BE DISAPPROVED FOR POLICY REASONS. FOLLOWING IS TEXT OF STR PRESS RELEASE, DATED APRIL 25, ANNOUNCING THAT THE PRESIDENT HAD DISAPPROVED THE USITC ORDER ON POLICY GROUNDS (BEGIN TEXT).

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ON POLICY GROUNDS, THE PRESIDENT HAS DISAPPROVED ISSUANCE BY THE U.S. INTERNATIONAL TRADE COMMISSION (USITC) OF A "CEASE AND DESIST" ORDER DIRECTED AT IMPORTS OF JAPANESE WELDED STAINLESS STEEL PIPE AND TUBE. THE PRESIDENT'S ACTION, ANNOUNCED YESTERDAY, WAS DESCRIBED IN FURTHER DETAIL TODAY BY THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS.

UNDER THE "UNFAIR TRADE PRACTICE" REMEDY AUTHORITY OF SECTION 337 OF THE TARIFF ACT OF 1930, THE USITC DETERMINED BY A 4-2 MAJORITY THAT CERTAIN MANUFACTURERS, EXPORTERS, AND IMPORTERS OF JAPANESE STEEL PIPE AND TUBE WERE BEING SOLD IN THE UNITED STATES AT PRICES BELOW THE AVERAGE VARIABLE COST OF PRODUCTION IN RESTRAINT OF TRADE BY SUBSTANTIALLY REDUCING THE DOMESTIC MARKET SHARE OF OTHER FOREIGN COMPETITORS. THE COMMISSION DID NOT DETERMINE INJURY TO THE DOMESTIC INDUSTRY. SECTION 337 AUTHORITY PREVIOUSLY HAD BEEN INVOKED MAINLY IN CASES OF ALLEGED PATENT INFRINGEMENTS.

THE PRESIDENT, IN MAKING HIS DETERMINATION OF DISAPPROVAL OF THE USITC ORDER, CITED FOUR POLICY REASONS FOR HIS ACTION:

1. THE DETRIMENTAL EFFECT OF THE IMPOSITION OF THE REMEDY ON THE NATIONAL ECONOMIC INTEREST;
2. THE DETRIMENTAL EFFECT OF THE IMPOSITION OF THE REMEDY ON THE INTERNATIONAL ECONOMIC RELATIONS OF THE UNITED STATES;
3. THE NEED TO AVOID DUPLICATION AND CONFLICTS IN THE ADMINISTRATION OF THE UNFAIR TRADE PRACTICE LAWS OF THE UNCLASSIFIED

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UNITED STATES; AND

4. THE PROBABLE LACK OF ANY SIGNIFICANT BENEFIT TO U.S. PRODUCERS OR CONSUMERS TO COUNTERBALANCE THE ABOVE CONSIDERATIONS.

THE COMMISSION FOUND THAT TOTAL IMPORT PENETRATION INTO THE DOMESTIC MARKET HAD INCREASED ONLY FROM 12.2 PERCENT IN 1972 TO 12.7 PERCENT IN 1976. THE PRIMARY EFFECT OF APPROVING THE CEASE AND DESIST ORDER WOULD THEREFORE BE LIMITED TO A SHIFTING AMONG FOREIGN SUPPLIERS OF THEIR SHARE OF THE PRESENT LEVEL OF IMPORTS INTO THE DOMESTIC MARKET. THIS RESULT WOULD PROVIDE LITTLE OR NO BENEFIT TO THE UNITED STATES WELDED STAINLESS STEEL PIPE AND TUBE INDUSTRY OR ITS EMPLOYEES. NOR WOULD IT SIGNIFICANTLY PROMOTE COMPETITION IN THE DOMESTIC INDUSTRY.

SALES BELOW COST OF WELDED STAINLESS STEEL PIPE AND TUBE HAVE BEEN THE SUBJECT OF TWO ANTIDUMPING INVESTIGATIONS BY THE DEPARTMENT OF THE TREASURY, ONE IN 1972, AND ANOTHER WHICH PROCEEDED SIMULTANEOUSLY WITH THE COMMISSION'S SECTION 337 INVESTIGATION. AS A RESULT OF

ITS MORE RECENT INVESTIGATION, WHICH INVOLVED SIX

PRODUCERS ACCOUNTING FOR APPROXIMATELY 85 PERCENT OF JAPANESE IMPORTS INTO THE UNITED STATES, THE TREASURY DEPARTMENT FOUND THAT FOUR FIRMS HAD SALES AT MORE THAN MINIMAL MARGINS BELOW FAIR VALUE.

SALES FROM THOSE FOUR FIRMS HAVE BEEN REFERRED TO THE COMMISSION FOR AN INJURY DETERMINATION UNDER THE ANTIDUMPING ACT. THE TREASURY DEPARTMENT'S DETERMINATION UNDER THE ANTIDUMPING ACT THEREFORE PROVIDES PROTECTION AGAINST UNFAIR TRADE PRACTICES DESCRIBED IN THIS CASE. MOREOVER, THE CEASE AND DESIST ORDER'S PROHIBITION OF UNJUSTIFIED SALES BELOW THE VARIABLE COST OF PRODUCTION
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PROVIDES A MORE DIFFICULT STANDARD FOR PETITIONERS TO SATISFY THAN THAT CONTAINED IN THE ANTIDUMPING ACT OF 1921 WHICH PROHIBITS INJURIOUS SALES BELOW THE TOTAL COST OF PRODUCTION.

ADDED TO THE ANTIDUMPING ACTIONS THE IMPOSITION OF THE CEASE AND DESIST ORDER COULD BE VIEWED BY OTHER NATIONS AS A DEPARTURE FROM INTERNATIONALLY AGREED PROCEDURES FOR DEALING WITH BELOW COST SALES, AND HARASSMENT OF THEIR PRODUCERS, AND AN UNJUSTIFIED BURDEN ON INTERNATIONAL TRADE. IT COULD INVITE RETALIATION AGAINST UNITED STATES EXPORTS, WOULD COMPLICATE CURRENT EFFORTS TO NEGOTIATE REVISIONS OF THE INTERNATIONAL TRADING RULES, AND THUS WOULD BE DETRIMENTAL TO THE NATIONAL ECONOMIC INTEREST AND TO THE INTERNATIONAL ECONOMIC RELATIONS OF THE UNITED STATES. (END TEXT.) VANCE

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